IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9671 of 2005

Between:

1. P.Chennaiah, S/o.P.Polaiah, and 14 others

..... PETITIONERS

AND

1. The General Manager,
   Telecom District Nellore.
2. The Chief General Manger, Telecom,
   A.P. Circle, Hyderbaad.
3. The Director General,
   Telecom, New Delhi,
4. The Chairman & Managing Director,
   BSNL, Telecom, New Delhi.

.....RESPONDENTS

The Court made the following:

ORDER:

This writ petition is filed by the petitioners seeking a writ of Mandamus declaring that the petitioners are entitled for placement in the Scale of Rs.4000-100-6000 in the cadre of Telecom Mechanics on completion of 16 years of service from the date of their appointment as regular Mazdoors/Group-D, as the case may be, in terms of Lr.No.1-38/MPP-98, dated 28.04.1999 and Lr.No.1-38/98-MPP, dated 20.09.1999 which removed the condition of minimum 4 years of service in the restructured cadre and as per the judgment of this Court in W.P.No.14744/2001 dated 16.10.2003 with

all consequential benefits.

2. According to the petitioners, they were appointed as Regular Mazdoors/Group-D on various dates in the year 1981, 1982, 1983 and 1986 respectively. Subsequently, they were promoted as Phone Mechanic (re-designated as Telecom Mechanics) on various dates in the year 1996, 1997 and 1998 respectively and placed in the scale of Rs.3200-85-4900. It is stated that as per the restructured cadre, Phone Mechanics were included in Group-C category and the scale prescribed was Rs.4000-100-6000. However, as the said scale was not implemented, some of the Telecom Mechanics filed O.A.No.1966 of 1999 before the Central Administrative Tribunal, which allowed the said O.A. and the same was the subject matter of the writ petition before this Court in W.P.No.14744 of 2001, wherein a Division Bench of this Court confirmed the order of the Tribunal on 16.10.2003. Therefore, according to the petitioners, they are entitled for the same benefit of the Scale of Pay of Rs.4000-6000 from their respective eligible dates with all consequential benefits.

3. The learned Standing Counsel appearing for the respondents, however, sought to contend that under similar circumstances, this Court passed orders giving the benefit of the scale from the date of their entitlement notionally. However, as far as the monetary benefits are concerned, they were restricted to be granted only from 01.01.2005. Hence, similar orders may be passed.

4. Heard both sides and considered the material available on record.

5. The issue whether Telecom Mechanics, which were re-designated, are entitled to the scale of Rs.4000-100-6000 was the subject matter of the O.A. No.1966 of 1999, dated 09.08.2000 before the Central Administrative Tribunal, whereunder the Tribunal held in favour of the employees granting the benefit of the scale. The said order was the subject matter of the writ petition before this Court in W.P.No.14744 of 2001 and this Court passed orders on 16.10.2003 confirming the orders, which reads thus:

> *When once the restructured cadre has been introduced and in the said re-structured cadre various persons were brought into the main stream, they have to be treated equally for all purposes including the scales of pay and other promotional*

prospectus. Allowing the higher pay scales to certain employees in the re-structured cadre and denying the same to other persons when they are holding the same post viz., Phone Mechanics, would amount to discrimination. It is to be noted that when re-structured group-C cadre formed a homogeneous group, there cannot be discrimination while giving higher pay scales to the employees in group-C cadre. Either it must be extended in toto or denial in toto, but the discrimination cannot be meted out on the ground that earlier to restructuring the respondents were holding group-D cadre and that group-C cadre itself is a promotional cadre. We do not find any nexus to the object sought to be achieved by carving out invidious discrimination. Converting homogenous group into heterogeneous without discernable criteria attracts the Wrath of Article 14 of Constitution of India. Thus, we are in agreement with the conclusions reached by the Tribunal and we do not find any infirmity or illegality in the order of the Tribunal.

In the light of the above judgment of this Court, the petitioners, who are similarly placed, are entitled for the benefit of the scale of pay. However, as the petitioners have approached this Court at a belated stage, the respondents are directed to grant the benefit of the scale of pay from the date of their respective entitlement notionally. The monetary benefit to which the petitioners are entitled to is confined only from 01.01.2005. The respondents are directed to implement the orders within a period of 8 weeks from the date of receipt of a copy of this order, and the additional monetary benefit to which the petitioners are entitled to be paid within that period.

Accordingly, the writ petition is disposed of. No order as to costs.

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(S. ANANDA REDDY, J)

Date: 19.08.2005

Ksn/Kvh